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**DECISION**



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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FILE: B-180800

DATE: July 25, 1974

MATTER OF: Parametric Industries, Inc. *D-3746*

- DIGEST:
1. Protester's <sup>Against</sup> contention that requirement in RFP for use of only qualified product is unnecessarily restrictive is not supported by record since it was technically determined that protester's product would not meet activity's minimum needs, and honest difference of technical opinion is not tantamount to arbitrary action on part of procurement activity which would require GAO to substitute its opinion for that of agency.
  2. While cancellation of previous authorization to conduct C.M. testing on protester's product may on its face appear to be arbitrary, record supports agency's position that no valid basis exists to extend qualification testing to product which in its view will not meet its needs.

*2* Parametric Industries, Inc. (Parametric), has protested any award under Defense Electronic Supply Center (DESC) request for proposals (RFP) DSA900-74-R-1536 pending a proper evaluation of Parametric's proposal to supply silicon, rather than germanium microwave mixer diodes called for by the solicitation. Parametric contends that the requirement in the RFP specifications for the use of germanium in microwave mixer diodes is unnecessarily restrictive because the use of silicon in the diodes would accomplish the same technical results. For the reasons stated we have concluded that Parametric's proposal need not be considered for award since it offered a nonspecification product. *925*

The RFP--a qualified products solicitation--issued on October 26, 1973, called for proposals on Microwave Mixer Diode, Germanium Point Contact, type 1N263 in accordance with MIL-S-19500 and MIL-S-19500/191A and for Microwave Mixer Diode, Germanium Point Contact, type 1N1838 in accordance with MIL-S-19500 and MIL-S-19500/364.

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11 Three proposals were received by closing date of January 15, 1974, from Parametric, Microwave Associates and Philco-Ford--the only offeror presently on the qualified products list. Parametric had not qualified its diodes for inclusion on the QPL at the time of receipt of proposals. As previously mentioned, Parametric proposed to supply silicon, rather than germanium microwave mixer diodes. No award as yet has been made under the RFP.

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The required diodes are designated as "JAN" devices (Joint Army-Navy types). The JAN designation indicates that the manufacturer's facilities, processes, and quality control procedures must be approved by the Government and the manufacturer must qualify his product for inclusion on a Qualified Products List (QPL). Specification MIL-S-19500 is a fully coordinated specification and is mandatory for use by all departments of the Department of Defense, and any changes must be agreed to by the departments. The Department of the Navy (Navy Electronics Systems Command) is the preparing activity for MIL-S-19500. The Directorate of Engineering Standardization, DESC, (DESC-E) acts as "agent" for the preparing activity and other military departments in some respects, but has no authority to make changes or revisions without approval from the military departments.

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On or about December 10, 1973, Parametric visited DFSC for the purpose of inquiring about qualification of their mixer diodes. Parametric was advised that silicon could not be used without approval by the military services and revision of the specifications, and that qualification approval could not be granted without such specification revision. Parametric submitted a formal application for qualification on January 4, 1974. On February 6, 1974, DESC authorized commencement of qualification testing subject to the approval of the use of silicon by the military departments. During meetings held on February 26, 27 and 28, 1974, between representatives of various manufacturers and representatives of the military services, the question of whether silicon diodes could be used to replace germanium diodes in microwave radar systems was discussed. It was decided that any diodes qualified using the 1N263 and 1N1838 type numbers had to be of germanium construction. Commenting on this decision, the Naval Electronic Systems Command states that it is conceivable a silicon diode could meet the test requirements in the basic specification and even perform in a jig for a particular microwave system, but that germanium and silicon diodes have different

characteristic curves; that the systems and systems application information is not readily available; and that it is almost impossible to determine silicon versus germanium performance in all systems.

In this connection, we are advised that the Government uses diodes in a great variety of microwave systems which have different performance requirements and that some of these microwave systems are classified and unknown to the procuring activities. We are told that although the diode's practical applications vary greatly, the specifications prescribe only those general performance parameters necessary for an "average" diode and by designing each microwave system around the average diode, designers have achieved the desired performance for each particular system. However, any change in the construction of this average diode would require redesign of all microwave systems in which the diode is used. Additionally, because, as mentioned above, silicon diodes and germanium diodes have different characteristic waves, redesigning a particular microwave system to accommodate silicon diodes might degrade its performance. Since the Naval Electronic Systems Command lacked the data to evaluate a silicon diode's effect on each microwave system, it advised DESC that it would not accept silicon diodes as a universal replacement. The substitution of a silicon diode for a germanium unit would, in the opinion of the Navy, risk the creation of microwave system problems. By letter of March 21, 1974, Parametric was notified that the previously issued authorization to conduct qualification testing was being cancelled.

Though the cancellation of the authorization for QPL testing of the silicon diode appeared, on its face, to be arbitrary and prejudicial to the competitive posture of Parametric, the record supports the action taken. In our view, the need for a germanium diode, rather than a silicon diode, is justified by the record. Since a possible change to silicon was thoroughly considered but rejected for technical reasons--microwave system risks--we may not say that the action was improper. We see no reason to extend qualification testing to a product which, in the considered judgment of the agency, will not meet its needs.

Our Office has consistently taken the position that the drafting of specifications to reflect the needs of the Government and the determination as to whether these needs can be

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met by a given product are primarily within the jurisdiction of the procuring agency, absent arbitrary action. 52 Comp. Gen. 393, 399 (1972). And we do not think that an honest difference of technical opinion is tantamount to arbitrary action on the part of the procurement activity. Hence, we would be reluctant to substitute our judgment for the activity's in this matter. 52 Comp. Gen. supra.

Accordingly, on the record, we find no basis to disagree with the agency's decision to forego consideration of Parametric's proposal for award.

  
Acting Comptroller General  
of the United States